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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,869	06/28/2006	Gerardus Henricus Broeksteeg	NL040047	1721

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BRIARCLIFF MANOR, NY 10510

EXAMINER

ZAHR, ASHRAF A

ART UNIT

PAPER NUMBER

2175

MAIL DATE

DELIVERY MODE

10/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/596,869

Applicant(s)BROEKSTEEG, GERARDUS
HENRICUS**Examiner**

ASHRAF ZAHR

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/18/2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 14-33 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14, 18-23, 27-28, 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rayner, US 5,519,828 (Hereinafter Rayner) in view of Barrus, US 7,225,405 (Hereinafter Barrus).

Regarding Claim 14, Rayner discloses, “a method of marking one or more parts of a recorded data sequence, comprising: displaying a representation of the recorded data sequence that includes a beginning and an end” (Rayner, Fig 7A: 21 A)

Rayner discloses “moving a pointer to a first user-selected position in an unmarked part of the representation, marking a part of the representation extending from the first user-selected position to the end of the representation without changing the representation from the beginning of the representation to the first user-selected position” (Rayner FIG 7A: 27). The end of the timeline is a mark, therefore, the marked part extends from the first marked point until the end of the timeline.

Rayner discloses “moving the pointer to a second user-selected position in the marked part of the representation”. Specifically, one can place multiple marks (Rayner, Fig 7A: 31).

Rayner does not specifically disclose, “and unmarking the part of the representation extending from the second user- selected position to the end of the representation”. However, it would be obvious to one of ordinary skill in the art at the time of the invention to unmark the rest of the representation and thus leave only the region between the two selected points mark as in Barrus et al. (Barrus, col 11, ln 12-25). Specifically, the selection operator can be applied to designated points or temporal ranges within an audio element by touching, clicking, or dragging across a section of a waveform corresponding to the desired

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point or temporal range. The motivation to do so would be to apply functions to the designated visual representation (Barrus, col 11, ln 12-25).

Regarding Claim 18, “the method of claim 15, including storing a sequence that includes only parts of the recorded data sequence corresponding to the marked parts of the representation of the recorded data sequence”. Specifically, the audio data field 204 is used to store the raw audio data or a pointer to a file storing the raw audio data (Barrus, col 5, ln 55 - col 6, ln 20).

Regarding Claim 19, “the method of claim 14, including storing a sequence that includes only parts of the recorded data sequence corresponding to the marked parts of the representation of the recorded data sequence”. Specifically, the audio data field 204 is used to store the raw audio data or a pointer to a file storing the raw audio data (Barrus, col 5, ln 55 - col 6, ln 20).

Regarding Claim 20, “the method of claim 19, wherein the storing of the sequence is to a storage medium”. Specifically, the audio data field 204 is used to store the raw audio data or a pointer to a file storing the raw audio data (Barrus, col 5, ln 55 - col 6, ln 20).

Regarding Claim 21, Rayner discloses “the method of claim 14, including: moving a pointer to a plurality of user-selected positions in unmarked parts of the representation” Fig 7A: 21 A)

Rayner discloses "marking a plurality of parts of the representation extending from each of the plurality of user-selected positions to the end of the representation". (Rayner FIG 7A: 27). The end of the timeline is a mark, therefore, the marked part extends from the first marked point until the end of the timeline.

Rayner discloses "moving the pointer to an other plurality of user-selected positions in marked parts of the representation". Specifically, one can place multiple marks (Rayner, Fig 7A: 31).

Rayner discloses "and unmarking an other plurality of parts of the representation extending from each of the plurality of other user-selected positions to the end of the representation". However, it would be obvious to one of ordinary skill in the art at the time of the invention unmark the rest of the representation and thus leave only the region between the two selected points mark as in Barrus et al. (Barrus, col 11, ln 12-25). Specifically, the selection operator can be applied to designated points or temporal ranges within an audio element by touching, clicking, or dragging across a section of a waveform corresponding to the desired point or temporal range. The motivation to do so would be to apply functions to the designated visual representation (Barrus, col 11, ln 12-25).

Regarding Claim 22, "the method of claim 21, including storing a sequence that includes only parts of the recorded data sequence corresponding to the marked parts of the representation of the recorded data sequence".

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Specifically, the audio data field 204 is used to store the raw audio data or a pointer to a file storing the raw audio data (Barrus, col 5, ln 55 - col 6, ln 20).

Regarding Claim 23, Rayner discloses “a recording device comprising: a data buffer, a recording unit for storing data on a storage medium, and a processor connected to the data buffer and the recording unit, the processor being configured to” (Rayner, col 3, ln 50-67).

Rayner discloses “display a representation of a recorded data sequence stored in the data buffer” (Rayner, col 3, ln 50-67).

Rayner discloses “receive user inputs from one or more function keys, mark a first part of the representation extending from a user-selected first position in an unmarked part of the representation to the end of the representation” Specifically

Rayner does not specifically disclose, “and unmark a second part of the representation extending from a second user-selected position in the first part of the representation to the end of the representation”. However, it would be obvious to one of ordinary skill in the art at the time of the invention unmark the rest of the representation and thus leave only the region between the two selected points mark as in Barrus et al. (Barrus, col 11, ln 12-25). Specifically, the selection operator can be applied to designated points or temporal ranges within an audio element by touching, clicking, or dragging across a section of a waveform corresponding to the desired point or temporal range. The motivation

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to do so would be to apply functions to the designated visual representation (Barrus, col 11, ln 12-25).

Regarding Claim 27, “the recording device of claim 24, wherein the processor is configured to enable the recording unit to store a sequence that includes only parts of the recorded data sequence corresponding to the marked parts of the representation to the storage medium”. Specifically, the audio data field 204 is used to store the raw audio data or a pointer to a file storing the raw audio data (Barrus, col 5, ln 55 - col 6, ln 20).

Regarding Claim 28, “the recording device of claim 23, wherein the processor is configured to enable the recording unit to store a sequence that includes only parts of the recorded data sequence corresponding to the marked parts of the representation to the storage medium”. Specifically, the audio data field 204 is used to store the raw audio data or a pointer to a file storing the raw audio data (Barrus, col 5, ln 55 - col 6, ln 20).

Regarding Claim 31, “the recording device of claim 23, including a memory element, wherein the processor is configured to store only parts of the recorded data sequence corresponding to the marked parts of the representation to the memory element”. Specifically, the audio data field 204 is used to store the raw audio data or a pointer to a file storing the raw audio data (Barrus, col 5, ln 55 - col 6, ln 20).

Regarding Claim 32, Rayner discloses “the recording device of claim 23, wherein the processor is configured to: mark a plurality of parts of the representation from each of a plurality of user- selected positions in unmarked parts of the representation to the end of the representation” Specifically, one can place multiple marks (Rayner, Fig 7A: 31).

Barrus also discloses “and unmark an other plurality of parts of the representation from each of an other plurality of user-selected positions in marked parts of the representation to the end of the representation”. However, it would be obvious to one of ordinary skill in the art at the time of the invention unmark the rest of the representation and thus leave only the region between the two selected points mark as in Barrus et al. (Barrus, col 11, ln 12-25). Specifically, the selection operator can be applied to designated points or temporal ranges within an audio element by touching, clicking, or dragging across a section of a waveform corresponding to the desired point or temporal range. The motivation to do so would be to apply functions to the designated visual representation (Barrus, col 11, ln 12-25).

Regarding Claim 33, “the recording device of claim 32, wherein the processor is configured to enable the recording unit to store a sequence that includes only parts of the recorded data sequence corresponding to the marked parts of the representation to the storage medium”. Specifically, the audio data

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field 204 is used to store the raw audio data or a pointer to a file storing the raw audio data (Barrus, col 5, ln 55 - col 6, ln 20).

5. Claims 15-17, 24-26, 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rayner, US 5,519,828 (Hereinafter Rayner) in view of Barrus, US 7,225,405 (Hereinafter Barrus) and in further view of Meek US 5,933,145 (Hereinafter Meek).

Regarding Claim 15, Rayner does not specifically disclose, "the method of claim 14, further comprising inverting marked and unmarked parts of the representation of the recorded data sequence if marking or unmarking is selected a second time with the pointer at the same position within the representation as a first time". Meek discloses, he "Select All" button allows a user to select all the rows. The user can then de-select the rows that are not to be included in the selection query. The "Invert Selection" button allows a user to select all rows that are currently de-selected and de-select all rows that are currently selected (Meek, col 6, ln 50-60). It would be obvious to one of ordinary skill in the art at the time of the invention to modify Rayner and Barrus to include a select all and invert selection. The motivation to do so would be to allow a user to select specific parts of the range with one button.

Regarding Claim 16, Rayner does not specifically disclose, "the method of claim 15, further comprising marking both parts of the representation of the

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recorded data sequence when marking or unmarking is selected a third time with the pointer at the same position within the representation as the first and second time". Meek discloses, he "Select All" button allows a user to select all the rows. The user can then de-select the rows that are not to be included in the selection query. The "Invert Selection" button allows a user to select all rows that are currently de-selected and de-select all rows that are currently selected (Meek, col 6, ln 50-60). It would be obvious to one of ordinary skill in the art at the time of the invention to modify Raner and Barrus to include a select all and invert selection. The motivation to do so would be to allow a user to select specific parts of the range with one button.

Regarding Claim 17, Rayner discloses, "the method of claim 16, including storing a sequence that includes only parts of the recorded data sequence corresponding to the marked parts of the representation of the recorded data sequence". Specifically, the audio data field 204 is used to store the raw audio data or a pointer to a file storing the raw audio data (Barrus, col 5, ln 55 - col 6, ln 20).

Regarding Claim 24, Rayner does not specifically disclose, "the recording device of claim 23, wherein the processor is configured to invert marked and unmarked parts of the representation if two sequential user inputs are received at a same user-selected position of the pointer within the representation". Meek discloses, he "Select All" button allows a user to select all the rows. The user

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can then de-select the rows that are not to be included in the selection query.

The "Invert Selection" button allows a user to select all rows that are currently de-selected and de-select all rows that are currently selected (Meek, col 6, ln 50-60).

It would be obvious to one of ordinary skill in the art at the time of the invention to modify Raner and Barrus to include a select all and invert selection. The motivation to do so would be to allow a user to select specific parts of the range with one button.

Regarding Claim 25, Rayner does not specifically disclose, "the recording device of claim 24, wherein the processor is configured to mark an entirety of the representation when a third sequential user input is received at the same user-selected position of the pointer within the representation". Meek discloses, he "Select All" button allows a user to select all the rows. The user can then de-select the rows that are not to be included in the selection query. The "Invert Selection" button allows a user to select all rows that are currently de-selected and de-select all rows that are currently selected (Meek, col 6, ln 50-60). It would be obvious to one of ordinary skill in the art at the time of the invention to modify Raner and Barrus to include a select all and invert selection. The motivation to do so would be to allow a user to select specific parts of the range with one button.

Regarding Claim 26, Barrus discloses, "the recording device of claim 25, wherein the processor is configured to enable the recording unit to store a

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sequence that includes only parts of the recorded data sequence corresponding to the marked parts of the representation to the storage medium". Specifically, the audio data field 204 is used to store the raw audio data or a pointer to a file storing the raw audio data (Barrus, col 5, ln 55 - col 6, ln 20).

Regarding Claim 29, Meek also discloses, "the recording device of claim 23, wherein the one or more function keys include a marking key for providing the user-selected first position, and an other unmarking key for providing the user-selected second position". Meek discloses, he "Select All" button allows a user to select all the rows. The user can then de-select the rows that are not to be included in the selection query. The "Invert Selection" button allows a user to select all rows that are currently de-selected and de-select all rows that are currently selected (Meek, col 6, ln 50-60). It would be obvious to one of ordinary skill in the art at the time of the invention to modify Raner and Barrus to include a select all and invert selection. The motivation to do so would be to allow a user to select specific parts of the range with one button.

Regarding Claim 30, Meek also discloses, "the recording device of claim 23, wherein the one or more function keys include a single key for providing the user-selected first and second positions". Meek discloses, he "Select All" button allows a user to select all the rows. The user can then de-select the rows that are not to be included in the selection query. The "Invert Selection" button allows

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a user to select all rows that are currently de-selected and de-select all rows that are currently selected (Meek, col 6, ln 50-60). It would be obvious to one of ordinary skill in the art at the time of the invention to modify Raner and Barrus to include a select all and invert selection. The motivation to do so would be to allow a user to select specific parts of the range with one button.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ASHRAF ZAHRA whose telephone number is (571)270-1973. The examiner can normally be reached on M-F 9:30 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore can be reached on (571)272-4088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AAZ 10/21/08

/WILLIAM L. BASHORE/
Supervisory Patent Examiner, Art Unit 2175